

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ALBERT CLATTERBUCK,
CHRISTOPHER MARTIN,
EARL MCCRAW,
JOHN JORDAN, AND
MICHAEL SLOAN,

Plaintiffs,

v.

Case No.: **3:11CV00043**

CITY OF CHARLOTTESVILLE,

Defendant.

MOTION TO DISMISS

Comes now the City of Charlottesville, by counsel, and moves this Court, pursuant to Rule 12 (b) (6), Federal Rules of Civil Procedure, to dismiss Plaintiffs as parties for lack of standing under Article III of the United States Constitution and to dismiss the three (3) claims alleged in the Complaint that designated provisions of §28-31 of the City Charlottesville Code regulating soliciting violate the First and/or Fourteenth Amendments to the United States Constitution. A copy of §28-31 of the City Charlottesville Code referenced in the Complaint is attached hereto for consideration by the Court in ruling on the Motion to Dismiss. The motion is supported by a brief with respect to each claim filed contemporaneously with this motion.

CITY OF CHARLOTTESVILLE
By Counsel

s/Richard H. Milnor
Richard H. Milnor, Esquire (VSB #14177)
Zunka, Milnor & Carter, Ltd.
414 Park Street
P O Box 1567
Charlottesville, VA 22902
Phone: 434-977-0191
Fax: 434-977-0198

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of August, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Jeffrey E. Fogel, Esquire
Steven D. Rosenfield, Esquire
ACLU of Virginia
913 East Jefferson Street
Charlottesville VA 22902

Rebecca K. Glenberg, Esquire
Thomas O. Fitzpatrick, Esquire
ACLU of Virginia Foundation, Inc.
530 East Main Street Suite 310
Richmond VA 23219

s/Richard H. Milnor